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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1933

No. 578

ALICE ASCHENBRENNER, PETITIONER,

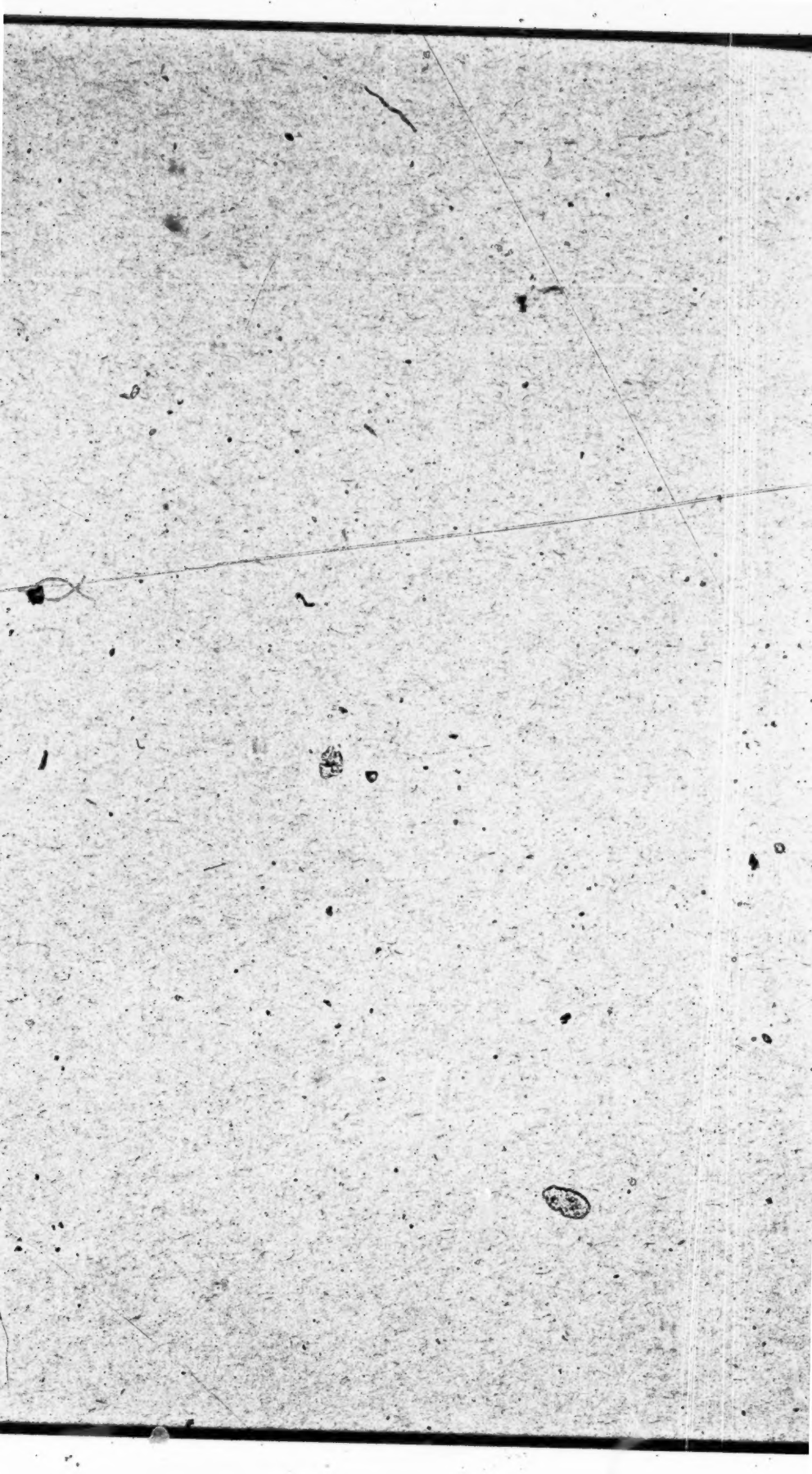
vs.

UNITED STATES FIDELITY & GUARANTY COMPANY

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR CERTIORARI FILED NOVEMBER 9, 1933

CERTIORARI GRANTED DECEMBER 11, 1933



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In the Superior Court of the State of California, in and for the County of San Mateo.

No. 19,198-S

20,073

ALICE A. ASCHENBRENNER,

Plaintiff,

vs.

UNITED STATES FIDELITY AND GUARANTY COMPANY, a corporation,

Defendant.

COMPLAINT.

The plaintiff complains and alleges as follows:

I.

That the defendant is a corporation organized and existing under and by virtue of the laws of Maryland.

II.

That on or about the first day of September, 1928, in the City and County of San Francisco, State of California, in consideration of the payment by insured to defendant of a premium of twenty five dollars ($25.00), defendant made and delivered to insured its written policy of insurance upon the life of said insured, Walter John Aschenbrenner, being policy numbered P. A. 47882 a copy of which is annexed hereto, marked Exhibit "A," and by this reference made a part hereof, and thereby insured the said Walter John Aschenbrenner against loss resulting directly and independently of all other causes from accidental bodily injuries, fatal or non-fatal, as in said policy provided, in the principal sum of seven thousand five hundred dollars ($7,500.00) and, by way of double indemnity, in the sum of fifteen thousand dollars ($15,000), in case of injuries sustained by the insured while a passenger in or on a public conveyance (including the platform, steps or running board thereof) provided by a common carrier for [1]* passenger service, as in said policy contained.

III.

That the said policy of insurance so issued by defendant was at all times from the first day of September, 1928, up to and including the 29th day of October, 1931, continued in full force and effect.

*Page numbering appearing at the foot of page of original certified Transcript of Record.

IV.

That on October 29, 1931, and while said policy of insurance was in force, the said insured received accidental bodily injuries while a passenger in and/or on a public conveyance provided by a common carrier for passenger service, to-wit, a northbound Southern Pacific passenger train in the County of San Mateo, State of California, and that said accidental bodily injuries so received resulted directly and independently of all other causes in the death of said insured, which said death occurred on the said 29th day of October, 1931.

V.

That the plaintiff herein is the beneficiary named in said policy of insurance.

VI.

That the plaintiff duly performed all the conditions of said policy of insurance on her part to be performed, and gave immediate notice of the death of said insured and on or about November 9, 1931, and more than sixty days prior to the commencement of this action, filed with said defendant proof of loss, as provided in said policy, and her claim thereunder, and demanded payment of the sum of fifteen thousand dollars ($15,000.00), no part of which has been paid.

WHEREFORE, plaintiff prays judgment against the defendant for the sum of fifteen thousand dollars ($15,000.00) with interest thereon at the legal